

# **TITLE V ADMINISTRATION**

## **CHAPTER 1 ORGANIZATION**

### **SEC. 501. CREATION OF TAX SERVICE.**

(a) CREATION. — There is hereby created a Tax Service which shall be an autonomous department of the government.

(b) FUNCTION. — The Tax Service shall have the sole function of administering the tax laws of Progresa in accordance with the laws of Progresa. It shall have no other function.

### **SEC. 502. ORGANIZATION OF TAX SERVICE.**

(a) TAX ADMINISTRATOR. — The Tax Service shall be headed by the Tax Administrator, who shall be appointed by the Executive Power solely on the basis of fitness to perform the functions of the office. The Tax Administrator shall have the rank of Minister.

(b) FUNCTIONAL ORGANIZATION. — The Tax Service shall be mainly organized along functional lines. Functions shall be divided among the departments in such a way that every function is allocated, but also in such a way that the duplication of tasks is avoided.

(c) DEPUTY ADMINISTRATORS. — The Tax Administrator shall be assisted by Deputy Administrators, who shall be appointed by the Tax Administrator. Each Deputy Administrator shall be the head of a

department or shall be responsible for such other functions as the Tax Administrator shall delegate.

(d) GEOGRAPHIC ORGANIZATION. — The Tax Administrator shall establish a central office, regional offices, and local offices. The functions of the Tax Service shall be distributed among these offices in such a way as to ensure a strong centralized tax system, organized along functional lines, that will maximize efficiency, integrity, and uniformity in the application of the law.

(e) INITIAL PLAN. — The Tax Administrator shall, within 90 days of the enactment of this Code, submit to the Executive Power the initial plan for organizing the Tax Service. Upon adoption by the Executive Power, the initial plan shall be published and go into effect.

(f) REORGANIZATIONS. — The Tax Administrator shall from time to time submit to the Executive Power plans to reorganize the Tax Service or any of its departments or offices, whenever to do so would further the purposes of this Code. Any such reorganization plan, when adopted by the Executive Power, shall be published and go into effect as provided in the plan.

## **CHAPTER 2**

### **PRINCIPLES OF ADMINISTRATION**

#### **SEC. 511. TAX SYSTEM TO BE BASED ON PRINCIPLES EMBODIED IN CODE.**

(a) **IN GENERAL.** — The Tax Service, in administering the tax system for Progresa, shall be guided by the principles embodied in this chapter and in the other provisions of this Code.

(b) **SELF-ASSESSMENT AND TAXPAYER COMPLIANCE.** — The principles referred to in subsection (a) include the following:

(1) Whenever practicable, the taxes shall be self-assessed by the taxpayer, and

(2) To make a self-assessment system effective, taxpayer compliance shall be encouraged by —

(A) A comprehensive program for informing and educating the public,

(B) Uniform application of the law under regulations and published rulings (instead of the application of the law through individual arrangements between tax officials and particular taxpayers),

(C) The selection, training, and promotion of tax officials who are honest, courteous, and fair, and who apply the law, regulations, and rulings to each case on the basis of the objective facts in that case, and

(D) Sanctions and penalties that are clearly understood and are swiftly applied in a uniform manner.

(c) COLLECTION PRINCIPLES. — The principles referred to in subsection (a) include the following:

(1) Emphasis on the collection of tax through withholding at the source,

(2) The establishment of a registration system in which each taxpayer will have his or her own identifying number,

(3) The requirement that each taxpayer keep adequate books and records and give tax officials access to them,

(4) The use of computers for any task where that use will be more efficient than manual labor,

(5) The use of banks in the collection process to free up manpower resources of the Tax Service, and

(6) Emphasis on audits and, where necessary, criminal investigations.

## **SEC. 512. SELF-ASSESSMENT.**

(a) DUTIES OF TAXPAYER. — Except in the case of amounts collected by withholding taxes which constitute final taxes, and except as otherwise provided in regulations, the taxpayer shall have the duty of —

(1) reporting the facts on which liability for tax can be computed,

(2) computing liability for tax,

(3) filing a return showing the result of that computation, and

(4) paying at the time of filing the amount owed.

(b) DUTIES OF TAX SERVICE. — To carry out the self-assessment system, the Tax Service shall have the duty of —

(1) designing tax forms that do not unduly burden the taxpayer,

(2) designing simple instructions to accompany the tax forms, and

(3) making the tax forms and instructions freely available to the public.

## **SEC. 513. INFORMATION AND EDUCATION.**

(a) BOOKLETS ON EACH TAX. — The Tax Service shall prepare for each tax a short explanatory booklet outlining the key feature of that tax. The booklet shall be written in simple language but shall be sufficiently detailed to give guidance to the taxpayer.

(b) STAFF GUIDE AND MANUAL. — The Tax Service shall prepare a staff guide and manual for each tax. The manual should be detailed, with numerous examples of how the tax applies to different circumstances.

(c) EDUCATION OF THE PUBLIC. — The Tax Service shall explain to the public how the taxes work, using radio, television, and print media, and other appropriate means.

(d) EDUCATIONAL VISITS. — In the case of the value added tax under title II, and of any other tax where the Tax Administrator determines it to be appropriate, tax officials from the local offices of the Tax Service shall make educational visits to new registrants to ensure that they understand their obligations and rights under the tax in question.

#### **SEC. 514. REGULATIONS AND RULINGS.**

(a) REGULATIONS PRESCRIBED. — The Tax Administrator shall prescribe and publish such regulations as may be necessary or appropriate to carry out the laws.

(b) MATTERS COVERED BY THE REGULATIONS. — The regulations prescribed by the Tax Administrator shall include (but not be limited to) regulations —

(1) interpreting or otherwise clarifying the provisions of the tax laws,

(2) providing for the enforcement of the tax laws and the collections thereunder,

(3) establishing procedures for the issuance and enforcement of summons (including summons to third persons who may have information with respect to the tax liability of a taxpayer), and

(4) setting forth additional charges for specified failures to comply with the law or regulations, and the machinery by which the Tax Service shall determine, review, and assess and collect such additional charges.

(c) WRITTEN RULINGS. — The Tax Service may prescribe rulings applying to specific factual circumstances if such rulings are —

(1) in writing, and

(2) consistent with the provisions of the tax laws and the regulations prescribed thereunder.

(d) PUBLICATION OF RULINGS. — Any ruling prescribed under subsection (c) shall be published if it involves a legal principle that may affect a number of taxpayers. In any such publication, any business secrets of the taxpayer involved shall be safeguarded.

## **SEC. 515. STAFFING.**

(a) SELECTION OF EMPLOYEES. — The Tax Administrator shall establish procedures (including competitive examinations) under which the employees of the Tax Service will be selected solely on the basis of fitness to perform the work of the Tax Service. All appointments (including appointments of officers and employees at the regional and local levels) shall be made by the Tax Administrator.

(b) PROMOTION. — The Tax Administrator shall establish procedures pursuant to which employees will be promoted solely on the

basis of meritorious service and ability to perform the work of the position to which they are being promoted.

(c) DISMISSALS. — The Tax Administrator shall establish procedures under which employees who are not qualified may be dismissed from the Tax Service. Such procedures shall include objective standards, hearings, and the right to counsel.

(d) APPEALS. — The Tax Administrator shall establish procedures under which employees may seek redress for grievances concerning work conditions, job assignments, promotions, dismissals, and related matters.

## **SEC. 516. IDENTIFYING NUMBERS.**

(a) EVERY PERSON MUST HAVE ONE. — Every taxpayer, and every person making any payment subject to tax under this Code, shall be assigned a permanent number to secure proper identification of the taxpayer or such person.

(b) NUMBERS TO BE FURNISHED. — To the extent provided in regulations, a person's identification number —

(1) shall be shown on the returns and other documents required to be filed under the tax laws, and

(2) shall be furnished to any other person who is making a payment to, or otherwise required to furnish tax information with respect to, the person being identified.

(c) COORDINATION. — Except as provided in regulations, the identifying number for a taxpayer shall be the same number for all



taxes. The Tax Administrator shall, together with the Customs Administrator, work out a joint registration system under which the taxpayer is assigned the same number for both tax and customs purposes.

#### **SEC. 517. BOOKS AND RECORDS; INFORMATION.**

(a) BOOKS AND RECORDS. — The taxpayer shall keep (and shall give such access to) such books and records as the Tax Administrator shall by regulations require.

(b) FURNISHING OF INFORMATION BY TAXPAYER. — The taxpayer (and any person claiming exemption from tax) shall file such returns, schedules, and other documents, and shall furnish such other information, as the Tax Administrator shall by regulations require for the enforcement of this Code or any other revenue law.

(c) FURNISHING OF RETURNS AND OTHER INFORMATION BY THIRD PERSONS. — To the extent and in the manner required by regulations, subsection (b) shall also apply to third persons having information relating to the tax liability of the taxpayer (or person claiming to be exempt).

#### **SEC. 518. COMPUTERS AND OTHER MODERN EQUIPMENT.**

(a) CENTRALIZED COMPUTER SYSTEM. — As soon as practicable, a central computer master tax file shall be established at the headquarters of the Tax Service. This computer system shall be compatible with the computer system established by the Customs Administration.

(b) CONTENTS OF MASTER FILE. — The master file for a taxpayer shall contain a record with respect to the taxpayer of —

(1) all taxes —

(A) reported on a return or declaration,

(B) withheld on the taxpayer's behalf, or

(C) assessed following an audit,

(2) all corrections or abatements resulting from an audit, administrative appeal, or court proceeding, and

(3) all payments, credits, and collections.

(c) CONFIRMATION FROM MASTER FILE REQUIRED. — Except as provided in regulations, no tax officer may issue a request to a taxpayer to pay tax or take other collection action until the officer has received written confirmation that the tax liability has been recorded in the taxpayer's master file.

(d) REGIONAL AND LOCAL OFFICES. — As soon as practicable, computers shall be installed at each regional and local office of the Tax Service. The computers at the local office shall maintain accounts for all taxpayers within their jurisdiction, monitor taxpayer compliance, print notices to nonfilers, print bills for delinquent taxpayers, select returns for audit, and produce statistical and management information.

(e) USE OF LATEST INFORMATION METHODS. —

(1) IN GENERAL. — Insofar as practicable, the Tax Service shall use the latest techniques and methods for

collecting, transmitting, storing, and retrieving information.

(2) REGULATIONS. — The regulations prescribed under this subsection shall include regulations —

(A) for safeguarding the accuracy, confidentiality, and tamper-proof quality of the information, and

(B) specifying the extent to which written signatures and other evidence that have been reproduced by the use of magnetic tape, imaging, or otherwise can be treated as the original in any administrative or judicial proceeding.

## **SEC. 519. USE OF BANKS.**

(a) IN GENERAL. — The Tax Administrator may enter into agreements with banks (both state banks and commercial banks) under which the banks agree to receive tax returns and tax payments.

(b) OBLIGATIONS OF BANKS. — Under the contracts the banks will be obligated —

(1) to send the returns, and the related payments and other documents, to the local office within the time limits prescribed by regulations,

(2) to group these documents in batches, with a summary showing for each batch the number of documents it contains and the amount of revenue collected, and

(3) to balance the daily collections with a balance control document.

(c) PAYMENTS TO BANKS. — The contracts will provide that the banks will be compensated for their services on the basis of the documents they process.

## **CHAPTER 3**

### **OTHER GENERAL PROVISIONS**

#### **SEC. 521. GENERAL REQUIREMENTS OF RETURN.**

(a) **IN GENERAL.** — When required by regulations, any person made liable for any tax imposed by this Code, or for the collection thereof, shall make a return according to the regulations on forms prescribed by the Tax Administrator. Every person required to make a return shall include therein the information required by the regulation or form and shall sign the return.

(b) **RETURN PREPARERS.** — Every person who for consideration assists another person in preparing a required return shall also sign the return. This subsection shall not apply to an employee of the person required to make the return.

#### **SEC. 522. FILING DATES.**

(a) **INCOME TAX RETURNS.** — The date for filing the return of the tax imposed by section 1 for the taxable year and for other annual returns under title I shall be March 31 of the next year.

(b) **OTHER RETURNS AND DOCUMENTS.** — Except as otherwise provided in this Code, the dates for filing other returns and documents shall be the dates prescribed by regulations.

(c) **NONBUSINESS DAYS.** — If any filing date prescribed by law or regulations is not a business day in Progresá, the filing date shall be the first business day thereafter.

## **SEC. 523. AUTHORITY TO MAKE CREDITS OR REFUNDS.**

(a) **IN GENERAL.** — In the case of any overpayment of a tax imposed by title I or III, the Tax Administrator may, for claims filed within the period set forth in section 553, credit the amount of such overpayment (including any interest allowed thereon) against any liability in respect of a tax imposed by Title I or III on the part of the person who made the overpayment, and shall refund any balance to such person.

(b) **SPECIAL PROVISION FOR VAT.** — For treatment of credits and refunds in the case of title II (VAT), see sections 232, 233, and 234.

## **SEC. 524. TAXPAYER REPRESENTATIVES.**

(a) **IN GENERAL.** — To the extent and in the manner provided by regulations, any person acting by law or de facto to represent a taxpayer shall file the returns, present the statements, pay the taxes, and comply with all the obligations required of taxpayers under this Code.

(b) **PERSONS REFERRED TO IN SUBSECTION (a).** — The persons referred to in subsection (a) include (but are not limited to):

(1) the guardian or other person having custody of a minor or other incapacitated person,

(2) the legal or judicial administrator of an estate (with respect to the income of the deceased and of the estate),

(3) in the absence of a legal or judicial administrator, the heirs with respect to the income of the deceased and of the estate,

(4) the proprietor of a business or activity with respect to the income of such business or activity,

(5) the president, director, manager, administrator, or other representative (or any other person required by regulations) of an entity or pass-through, and

(6) the bankrupt syndicate or representative of an organization in liquidation, as well as the guardian of the goods of an insolvent business or undertaking.

## **CHAPTER 4**

### **PAYMENT; ASSESSMENT AND COLLECTION**

#### **SEC. 531. TIME AND PLACE FOR PAYING TAX SHOWN ON RETURNS.**

Except as provided in regulations, when a return of tax is required under this Code or regulations, the person required to make such return shall, without assessment or notice and demand from the Tax Administrator, pay such tax at the time and place fixed for filing the return (determined without regard to any extension of time for filing the return).

#### **SEC. 532. ASSESSMENT AUTHORITY.**

(a) **GENERAL RULE.** — The Tax Administrator shall make the inquiries, determinations, and assessments of all taxes (including interest and additional charges) imposed by this Code which have not been paid at the time and in the manner provided by law or regulations.

(b) **BURDEN OF PROOF.** — The burden of proving that the making of any assessment by the Tax Administrator is erroneous, and the burden of proving that the amount of any such assessment is incorrect, shall be on the taxpayer.

(c) **TAX SHOWN ON THE RETURN.** — Except as provided in regulations, the filing of a return showing liability for tax shall be treated as —

(1) an assessment of such tax, and



(2) notice and demand that such tax be paid with the return.

(d) CORRECTION OF SELF-ASSESSMENT. — Whenever the designated officer determines that the amount of tax shown on the return is incorrect, such officer shall make a new, correct assessment, shall enter the assessment on the records of the Tax Service in the manner provided by regulations, and shall immediately notify the taxpayer of the correction and the amount of any underpayment or overpayment.

### **SEC. 533. PAYMENT ON NOTICE AND DEMAND.**

(a) REQUIREMENT OF PAYMENT. — On notice and demand from the Tax Administrator, there shall be paid at the place and time stated in such notice the amount of tax (including any interest and additional charges) stated in such notice and demand.

(b) METHOD OF DELIVERING NOTICE. — The notice described in subsection (a) (and any other notice described in regulations) shall be —

- (1) given in person,
- (2) left at the dwelling or usual place of business of the person, or
- (3) sent by telegram or mail to the person's last known address.

### **SEC. 534. COLLECTION AUTHORITY.**

(a) IN GENERAL. — The Tax Administrator shall collect the taxes imposed by this Code.

(b) METHODS OF COLLECTION. — Although the general methods of collecting the taxes imposed by this Code shall be by return or by withholding, the Tax Administrator may by regulations prescribe such additional reasonable methods as may be necessary or helpful in securing a complete and proper collection of tax.

## **SEC. 535. RULES FOR TAXES COLLECTED AT THE SOURCE.**

Whenever any person is required under this Code to collect any tax from any other person by withholding or any other method and to pay over such tax, the amount of tax so collected shall be held to be a special fund deposited for the government which is the property of the government. Except as provided in regulations, the amount of such fund shall be assessed, collected, and paid in the same manner and subject to the same provisions and limitations (including penalties) as are applicable with respect to the taxes from which such fund arose.

## **CHAPTER 5**

### **LIENS; LEVIES**

#### **SEC. 541. LIEN FOR TAXES.**

(a) CREATION OF LIEN. — If any person liable to pay any tax imposed by this Code neglects or refuses to pay the same after notice and demand, the amount (including any interest, additional charge, or penalty, together with any costs that may accrue in addition thereto) shall be a lien in favor of Progresa on all property, whether movable or immovable, belonging to such person.

(b) VALIDITY AND PRIORITY OF LIEN. — If all applicable filing requirements prescribed by regulations have been satisfied, any lien described in subsection (a) shall, except to the extent provided in regulations, be valid against all other rights in the property subject to the lien and shall have priority over all subsequently filed liens with respect to such property.

(c) ADMINISTRATIVE APPEAL OF LIENS. — Any person may appeal to the designated officer for a release of any lien on the property of such person, alleging an error in the filing of such lien. If the designated officer determines that the filing of the lien was erroneous, such officer shall promptly (and, to the extent practicable, within 14 days after such determination) issue a certificate of release of such lien and shall include in such certificate a statement that such filing was erroneous.

## **SEC. 542. SEIZURE OF PROPERTY TO COLLECT TAX.**

(a) **AUTHORITY TO SEIZE.** — If any person liable to pay any tax imposed by this Code neglects or refuses to pay the same within 10 days after notice and demand, it shall be lawful for the designated officer to collect such tax (and such further amount as shall be sufficient to cover the expenses of the levy) by levy on any property belonging to such person. In the case of property consisting of the accrued salary or wages of any officer or employee, levy may be made by serving a notice of levy on the officer or employee who has the duty or paying the salary or wages.

(b) **SEIZURE AND SALE OF PROPERTY.** — For purposes of this title, the term “levy” includes seizure by any means. Except as provided in subsections (c) and (f), a levy shall extend only to property belonging to the taxpayer (whether in the physical possession of the taxpayer or a third person), and to obligations existing, at the time the levy is made. In any case in which the designated officer may levy on property, the officer may seize and sell the same (whether immovable or movable, tangible or intangible).

(c) **SUCCESSIVE SEIZURES.** — Whenever any property on which levy has been made is not sufficient to satisfy the claim for which levy is made, the designated officer may, thereafter and so often as may be necessary, proceed to levy on other property liable to levy of the person against whom the claim exists until the amount due from such person, together with all expenses, is fully paid.

(d) **REQUIREMENT OF NOTICE BEFORE LEVY.** —

(1) IN GENERAL. — Levy may be made under subsection (a) on the property of any person with respect to any unpaid tax only after the designated officer has notified such person in writing of the intention to make such levy.

(2) 30-DAY REQUIREMENT. — The notice required under paragraph (1) shall, not less than 30 days before the day of the levy, be delivered in the manner provided in section 533(b).

(e) JEOPARDY. — If the designated officer makes a finding that the collection of the tax is in jeopardy, notice and demand for immediate payment of such tax may be made by the designated officer and, on failure or refusal to pay the tax, collection thereof by levy shall be lawful without regard to the 10-day period provided in subsection (a) and the 30-day provided in subsection (d).

(f) CONTINUING LEVY ON SALARY AND WAGES. — The effect of a levy on salary or wages payable to or received by a taxpayer shall be continuous from the date such levy is first made until the liability out of which such levy arose is satisfied or becomes unenforceable by reason of lapse of time.

(g) PROPERTY EXEMPT FROM LEVY. — There shall be exempt from levy —

(1) such amount of wages or other periodic income,

(2) such items of wearing apparel, food, furniture, personal effects, and tools of trade or profession, and

(3) such other items and amounts,

as may be provided in regulations.

#### **SEC. 543. ENFORCEMENT OF LEVY.**

(a) SURRENDER OF PROPERTY. — Any person in possession of (or obligated with respect to) property subject to levy on which a levy has been made shall, on the demand of the designated officer, surrender such property (or discharge such obligation) to the designated officer, except such part of the property as is, at the time of such demand, subject to an attachment or execution under any judicial process.

(b) ENFORCEMENT OF LEVY. —

(1) EXTENT OF PERSONAL LIABILITY. — Any person who fails or refuses to surrender any property subject to levy on demand of the designated officer shall be personally liable to the government in a sum equal to the value of the property not so surrendered, but not exceeding the amount of taxes for the collection of which levy has been made (together with costs and interest on such sum as if it were an underpayment of tax).

(2) ADDITIONAL CHARGE. — In addition to the personal liability imposed by paragraph (1), if the failure or refusal to surrender is without reasonable cause, such per-

son shall be liable for an additional charge equal to 50 percent of the amount recoverable under paragraph (1).

(c) EFFECT OF HONORING LEVY. — Any person in possession of (or obligated with respect to) property who surrenders or makes payment in accordance with this section shall be discharged from any obligation or liability to the delinquent taxpayer or to any other person arising from such surrender or payment.

#### **SEC. 544. PRODUCTION OF BOOKS.**

If a levy has been made or is about to be made on any property, any person having custody or control of any books or records containing evidence or statements relating to the property subject to levy shall, on demand of the designated officer, exhibit such books or records to the designated officer.

#### **SEC. 545. TAXPAYER SAFEGUARDS.**

Any property seized under this chapter shall be seized, held, and accounted for only by the designated officer of the Tax Service. No other agency of the government may use this chapter to seize or to hold any property. If any property seized under this chapter is sold, any portion of the proceeds in excess of the taxpayer's liabilities under this Code shall be returned promptly to the owner of the property.

#### **SEC. 546. PROPERTY INCLUDES RIGHTS TO PROPERTY.**

For purposes of this chapter, the term "property" includes rights to property.

## **CHAPTER 6**

### **PERIODS OF LIMITATION**

#### **SEC. 551. PERIOD FOR ASSESSMENT.**

(a) **GENERAL RULE.** — Except as otherwise provided in subsection (b), the amount of any taxes imposed by this Code shall be assessed within 3 years after the due date for the return or declaration (or, if later, the date the return or declaration was filed).

(b) **ASSESSMENT PERIOD EXCEPTIONS.** — A tax imposed by this Code may be assessed, or a proceeding in court for the collection of such tax may be begun without assessment, at any time if —

- (1) there is a fraudulent return, or
- (2) there is a failure to file a return.

#### **SEC. 552. PERIOD FOR COLLECTION.**

(a) **LENGTH OF PERIOD.** — Where the assessment of any tax imposed by this Code has been made within the applicable period of limitation, such tax may be collected by levy or by a proceeding in court, but only if the levy is made or the proceeding begun —

- (1) within 6 years after the assessment of the tax, or
- (2) before the expiration of any period for collection agreed on in writing by the designated officer and the taxpayer.

(b) **EFFECT OF COURT PROCEEDING.** — If a timely proceeding in court for the collection of a tax is commenced, the period during which such tax may be collected by levy shall be extended and shall not



expire until the liability for the tax (or a judgment against the taxpayer arising from such liability) is satisfied or becomes unenforceable.

(c) TAXPAYERS OUTSIDE PROGRESA. — In the case of a taxpayer who is a physical person, the period for collection shall be suspended for any period during which the taxpayer is outside Progresa for a continuous period of at least 6 months.

### **SEC. 553. PERIOD FOR CREDIT OR REFUND.**

Claim for credit or refund of an overpayment of any tax imposed by this Code shall be filed by the taxpayer within 3 years from the date the tax was paid.

## **CHAPTER 7**

### **INTEREST; ADDITIONAL CHARGES**

#### **SEC. 561. INTEREST.**

(a) UNDERPAYMENTS. — If any amount of tax imposed by this Code is not paid on or before the last date prescribed for payment, interest on such amount shall be paid at the rate established under subsection (c) for the period from such last date to the date paid.

(b) OVERPAYMENTS. — Interest shall be allowed and paid at the rate established under subsection (c) on any overpayment in respect of any tax imposed by this Code. In the case of a credit, such interest shall be allowed and paid from the date of the overpayment to the due date of the amount against which the credit is taken. In the case of a refund, such interest shall be allowed and paid from the date of the overpayment to a date (to be determined by the Tax Administrator) not more than 60 days before the date of the refund check.

(c) RATE OF INTEREST. — The Tax Administrator shall determine and publish a rate of interest for underpayments and overpayments not less frequently than annually. Such rate for each period shall be 120 percent of the prime commercial rate for such period. For purposes of the preceding sentence, the term “prime commercial rate” means the rate commercial banks in Progresa charge their best customers, as determined by the Tax Administrator.

#### **SEC. 562. ADDITIONAL CHARGES.**

(a) FAILURE TO FILE OR PAY. —

(1) FAILURE TO FILE. — If any person fails to file a return on time, there shall be added to such person's tax liability an additional charge of 5 percent of the tax reportable on the return for each month the return is late, with a minimum of PR 1,000 and a maximum of 25% of the tax reportable.

(2) FAILURE TO PAY. — If any person fails to pay a tax deficiency within 10 days after receiving a notice of assessment and demand for payment, there shall be added to such person's tax liability an additional charge of 1 percent of the tax per month, with a minimum of PR 1,000 and a maximum of 25% of the tax reportable.

(3) WAIVER IN CERTAIN CASES. — The additional charges provided by this subsection may be waived if the taxpayer proves reasonable cause and good faith.

(b) UNDERPAYMENTS RESULTING FROM NEGLIGENCE OR MISSTATEMENTS OF VALUE. — If any underpayment of tax results from —

(1) negligence or intentional disregard of rules and regulations,

(2) substantial understatements of income or substantial overstatements of deductions, or

(3) substantial overvaluations or substantial undervaluations,

there shall be added to the taxpayer's tax liability an additional charge of 20 percent of the underpayment.

(c) UNDERPAYMENTS RESULTING FROM FRAUD. — If the designated officer establishes that a false document, false statement, active act of concealment, or other willful misconduct resulted in an underpayment of tax, there shall be added to the taxpayer's tax liability an additional charge of 50 percent of the underpayment.

(d) INFORMATION RETURN. — If any person is required to file an information return with respect to any payment of a dividend, interest, or sales proceeds, or with respect to any other transaction, such person shall be assessed and shall pay a charge of —

(1) PR 10 for each failure to file a return or for each inaccurate return, or

(2) 5% of the reportable amount if the failure or inaccuracy resulted from intentional disregard of the reporting rules.

(e) RETURN PREPARERS. — If any person required to sign a return under section 521(b) makes an error on such return, such person shall be assessed and shall pay a charge of —

(1) PR 1,000 if the error was due to carelessness or an unrealistic interpretation of the tax laws, or

(2) PR 10,000 if the error was due to reckless or intentional disregard of the rules or regulations.

(f) COORDINATION OF ADDITIONAL CHARGES. — In the case of any violation, any additional charge under subsection (a) shall be added to any additional charge under subsection (b) or (c). Also, such charges shall be in addition to any interest, sanctions, or other additional charges provided by law.

(g) ADDITIONAL CHARGES TREATED AS TAX. — The additional charges provided by this section, section 563, or any other provision of this Code shall be paid on notice and demand by the Tax Administrator and shall be assessed and collected in the same manner as taxes. Any references in this Code to tax imposed by this Code shall be deemed to refer also to the additional charges provided by this Code.

#### **SEC. 563. ADDITIONAL CHARGES IN CASE OF COLLECTED TAXES.**

Any person required to collect, account for, and pay over any tax imposed by this Code who willfully —

(1) fails to collect such tax or to account for and pay over such tax, or

(2) attempts in any manner to evade or defeat any such tax or the payment thereof,

shall, in addition to other penalties provided by law, be liable for an additional charge equal to the total amount of the tax not collected, not paid over, or evaded or defeated.

## **CHAPTER 8**

### **VIOLATIONS PUNISHABLE BY FINE OR IMPRISONMENT**

#### **SEC. 566. VIOLATIONS; PENALTIES FOR VIOLATIONS.**

(a) IN GENERAL. — Any person, who, with respect to any tax imposed by this Code —

- (1) attempts to evade or defeat such tax,
- (2) willfully fails to collect such tax,
- (3) willfully fails to file a return, to register, or to supply information,
- (4) willfully hides or destroys any book, record, document, statement, or other information,
- (5) willfully fails to obey a summons,
- (6) makes or furnishes any fraudulent record, document, statement, or other information,
- (7) attempts to interfere with the determination or collection of such tax,
- (8) being a notary public, conservator of mortgages, registrar of titles, or other person, willfully performs any responsibility (or fails to perform any responsibility) in such a way as to interfere with the determination or collection of any tax,
- (9) being an officer or employee of the government, solicits or accepts any bribe or performs any other im-

proper act relating to the duty to determine and collect such tax,

(10) offers any bribe to an officer or employee charged with duties under this Code, or attempts in any other way to have such an officer or employee perform an improper act relating to such duties,

(11) willfully discloses any tax information gathered under this Code in a manner not authorized by law or regulations, or

(12) in any way willfully assists in, or contributes to, any of the foregoing violations,

shall, upon conviction thereof, be punished by a fine of not less than PR 5,000 and not more than PR 500,000, or by imprisonment for not less than one month and not more than 2 years, or both.

(b) OTHER VIOLATIONS. — Any person who willfully violates any provision of this Code or the regulations thereunder for which a penalty is not provided by subsection (a) shall, upon conviction thereof, be punished by a fine of not less than PR 1,000 and not more than PR 100,000, or by imprisonment for not less than 7 days and not more than one year, or both.

(c) RELATIONSHIP TO OTHER LAWS. — The sanctions contained in subsections (a) and (b) shall not in any way prejudice the imposition of other sanctions under the criminal laws of Progresá or under this Code.

## **SEC. 567. CONVICTIONS TO BE PUBLICIZED.**

Nothing in any provision of law shall prevent the designated officer from causing to be published and widely circulated the names of persons who have been convicted of violating any provision of this Code or the regulations prescribed thereunder.



## **CHAPTER 9**

### **TAXPAYER RIGHTS**

#### **SEC. 571. ADMINISTRATIVE APPEALS.**

(a) REQUEST TO OFFICER MAKING DETERMINATION TO RE-  
CONSIDER. —

(1) IN GENERAL. — A taxpayer who believes —

(A) that the estimate or determination by the  
designated officer of the taxpayer's income or other  
tax base is incorrect, or

(B) that any other official determination under  
this Code is incorrect or unfair,

may request the designated officer who made the determination to  
reconsider the decision.

(2) TIME FOR REQUEST. — A request under para-  
graph (1) shall be made not later than the 30th day after  
the day on which the taxpayer was notified of the deter-  
mination.

(b) APPEAL TO REVIEW BOARD. —

(1) IN GENERAL. — A taxpayer who does not agree  
with a decision made under subsection (a) may appeal to  
an Administrative Review Board. For this purpose, the Tax  
Administrator shall establish one or more Administrative  
Review Boards consisting of 3 or more officers of the Tax  
Service.

(2) TIME FOR APPEAL. — An appeal under paragraph (1) shall be made not later than the 30th day after the day on which the taxpayer was notified of the decision under subsection (a).

(3) ADMINISTRATIVE FINALITY. — Except for appeals to the Tax Administrator authorized by regulations, a decision of an Administrative Review Board may not be appealed administratively.

(c) REQUIREMENTS FOR REQUESTS AND APPEALS. — Any request under subsection (a) and any appeal under subsection (b) shall be —

(1) in writing, and

(2) supported by such documents, other evidence, and arguments as the taxpayer may wish to present.

(d) OBLIGATION TO PAY SUSPENDED. — A claim under subsection (a) or (b), when made in accordance with the provisions of this Code, suspends the obligation to pay the taxes and charges until the determination of the claim. The designated officer or the Administrative Review Board (as the case may be) shall notify the claimant of the determination of the case and shall inform the taxpayer of the tax and charges to be paid.

## **SEC. 572. DISPUTE REVIEW OFFICERS.**

(a) APPOINTMENT AND FUNCTION. — The Tax Administrator shall appoint one or more Dispute Review Officers whose function

shall be to review cases (including cases being appealed under section 571(b)) involving disputes between the Tax Service and the taxpayer.

(b) **AUTHORITY TO OFFER COMPROMISE.** — The Dispute Review Officer shall have authority to offer the taxpayer a compromise of the dispute when, in the judgment of the Officer, the facts, law, and hazards of litigation make it probable that the proposed compromise would further the interests of the Tax Service.

(c) **REVIEW BEFORE OFFER IS MADE.** — No Dispute Review Officer may propose a compromise until he or she has prepared a written memorandum justifying the proposed compromise, and the proposal and memorandum have been reviewed both by the tax officer making the initial determination and the supervisor of the Dispute Review Officer.

(d) **APPROVAL BY CENTRAL OFFICE.** — No compromise shall become binding on the Tax Service until it has been approved in writing by the central office of the Tax Service.

### **SEC. 573. TAX COURT CREATED.**

(a) **CREATION.** — There is hereby created a Tax Court to hear all civil cases arising under this Code. Except as provided in subsection (d), no other court shall have jurisdiction of such cases.

(b) **APPOINTMENT OF JUDGES.** — The Tax Court shall consist of 5 judges appointed by the Executive Power solely on the basis of their fitness to perform their functions.

(c) TERMS. — The term of office of a judge shall be 10 years, except that of the judges first appointed one shall serve for each of the following: 2 years, 4 years, 6 years, 8 years, and 10 years.

(d) APPEALS. — Decisions of the Tax Court may be appealed only to the Supreme Court of Progresá.

(e) RULES. — The Tax Court shall prescribe such rules as may be necessary for its governance.

(f) PAYMENT MAY BE REQUIRED FOR APPEALS. — The Tax Court may by rules provide that no appeal may be made to the Tax Court unless part or all of the tax liability in dispute has been paid.

#### **SEC. 574. TAX FILES MUST BE KEPT CONFIDENTIAL.**

(a) IN GENERAL. — No person who participates in any capacity in a tax proceeding may reveal any information acquired in the course of the proceeding to any other person except as provided in this section.

(b) DISCLOSURE FOR TAX ADMINISTRATIVE PURPOSES. —

(1) USE IN TAX OR ENFORCEMENT PROCEEDINGS. —

An officer or employee of the Tax Service may provide information gained in the course of a tax proceeding to tax administrative or law enforcement officers of Progresá for use in tax matters or in criminal prosecution for a tax offense.

(2) STATISTICAL REPORTS. — The Minister of Finance may receive information derived from tax proceed-

ings in a form that does not identify specific taxpayers for use in compiling statistics or for other analytical purposes.

(c) **WAIVER OF RIGHT BY TAXPAYERS.** — The taxpayer may release other participants in a tax proceeding from the duty of confidentiality. Such a release must be in writing and may limit the release to specific information or to use for a specific purpose.

**SEC. 575. ESTABLISHMENT OF OMBUDSMAN (OFFICIAL TO RESOLVE PROBLEMS).**

(a) **OFFICE ESTABLISHED.** — There is hereby established as an independent office the Office of Tax Ombudsman, to be headed by an Ombudsman appointed by the Executive Power. The Ombudsman may hire such officers and employees and establish such offices as may be necessary to carry out the functions of the Office.

(b) **FUNCTIONS.** — The Ombudsman shall have no power to determine a case on its merits or to act as an administrative appeals officer. Instead the Ombudsman shall listen to taxpayer complaints, attempt to resolve conflicts between the taxpayer and the officers and employees administering this Code, and take such other problem-solving action as the Executive Power may deem appropriate to ensure that this Code is administered with maximum efficiency, courtesy, and fairness.

## **CHAPTER 10**

### **REPEAL OF INCONSISTENT LAWS**

#### **SEC. 581. REPEAL OF INCONSISTENT LAWS.**

This Code modifies and repeals any law enacted before this Code which is inconsistent with this Code to the extent of such inconsistency.

#### **SEC. 582. LIABILITIES PRESERVED.**

Any liability for tax or penalty under an existing provision of law for any period before January 1, 1996, shall not be affected by section 581.

## **CHAPTER 11**

### **EFFECTIVE DATE**

#### **SEC. 591. EFFECTIVE DATE.**

The taxes imposed by this Code shall apply (in the manner provided by regulations) to periods and transactions after December 31, 1995.

